UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:	)	
	)	
JUDITH K. ROGAN,	)	CASE NO. 08-23221 JPK
	)	Chapter 13
Debtor.	)	

MEMORANDUM OF DECISION REGARDING MOTIONS FOR TRANSFER OF VENUE FILED BY DEXIA LOCAL CREDIT AND THE UNITED STATES OF AMERICA

This Chapter 13 bankruptcy case was initiated by a petition filed on September 29, 2008. On November 24, 2008, Dexia Credit Local ("Dexia") filed its Motion of Dexia Credit Local to Transfer Venue of Chapter 13 Bankruptcy Proceeding and Memorandum in Support. This filing was accompanied by a legal memorandum in excess of the page limitation allowed by N.D.Ind.L.B.R. B-7007-1(b), and by order entered on December 4, 2008, Dexia's motion to exceed that page limitation was denied and that legal memorandum was stricken. On December 5, 2008, Dexia filed another document entitled "Motion of Dexia Credit Local to Transfer Venue of Chapter 13 Bankruptcy Proceeding and Memorandum in Support", this time accompanied by a legal memorandum which conformed to the applicable page limitation. The court deems Dexia's motion to transfer venue to have been filed on November 24, 2008, as supplemented by the memorandum filed on December 5, 2008 – Dexia's second motion was surplusage. On December 12, 2008, the United States of America filed its "Motion to Join Dexia's Motion to Transfer Venue"; the court has deemed this filing to constitute a separate motion to transfer venue filed by the United States of America. The motion filed by Dexia and the motion filed by the United States initiated separate contested matters. However, because proceedings with respect to both motions have been conducted concurrently – and due to the symmetry of the issues raised by each motion – this memorandum and the resulting order address both motions and yet constitute the final determination pursuant to Fed.R.Bankr.P.

9014(c)/ Fed.R.Bankr.P. 7052/Fed.R.Civ.P. 52(a) separately with respect to each motion.

Both Dexia and the United States contend that the Chapter 13 bankruptcy case of Judith Rogan should be transferred from the United States Bankruptcy Court for the Northern District of Indiana, Hammond Division to the United States Bankruptcy Court for the Northern District of Illinois, in Chicago, pursuant to Fed.R.Bankr.P. 1014(a)(1). That Rule states as follows:[1]

> (a) Dismissal and Transfer of Cases
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> (1) Cases Filed in Proper District
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> If a petition is filed in the proper district, the court, on the timely motion of a party in interest or on its own motion, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, may transfer the case to any other district if the court determines that the transfer is in the interest of justice or for the convenience of the parties.

Because Rogan filed her case in the Northern District of Indiana, Hammond Division, venue in this court is presumed to be proper, and Dexia and the United States bear the burden of establishing that venue should be transferred; *see, Matter of Peachtree Lane Associates, Ltd.*, 150 F.3d 788, 792-793 (7th Cir. 1998).

The standards which the court will apply to determination of the venue transfer issues are those which the court has stated in its decision of *In re Eagle Pointe Limited Dividend Housing Association Limited Partnership*, 350 B.R. 84 (Bankr.N.D.Ind. 2006).[2] The standards

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[1] Rogan's legal memorandum in opposition to the motions to transfer confusingly addresses her view that Dexia and the United States also contend that venue in the United States Bankruptcy Court for the Northern District of Indiana, Hammond Division is not proper, and that Fed.R.Bankr.P. 1014(a)(2) should apply. First, the court does not read either of those parties' contentions in this manner. Secondly, the record before the court with respect to both motions conclusively demonstrates that venue in this court is proper under 28 U.S.C. § 1408(1).

[2] The court advised the parties throughout the course of proceedings on the venue transfer motions that the law that would be applied was that stated in the *Eagle Pointe* case. The parties have either enthusiastically endorsed the court's legal analysis in that case, or grudgingly acquiesced in it – doesn't matter, because Rogan, Dexia and the United States have all addressed the legal issues with respect to the motions under the standards stated in that

to be applied to the motions were stated as follows in *Eagle Pointe*:

> 28 U.S.C. § 1412 and Fed.R.Bankr.P. 1014(a)(1) have two principal overriding rubrics which are to determine whether or not venue of a Chapter 11 case should be transferred to another court: in "the interest of justice" or "for the convenience of the parties". As stated in *Commonwealth Oil Refining Co., Inc.* – and as concurred in by both parties in their memoranda – the factors under the prong of "convenience of the parties" is to be determined by analysis under six elements:
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> Under the heading of convenience of the parties the bankruptcy court listed six factors:
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> (1) The proximity of creditors of every kind to the Court;
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> (2)The proximity of the bankrupt (debtor) to the Court;
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> (3) The proximity of the witnesses necessary to the administration of the estate;
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> (4) The location of the assets;
>
> (5)The economic administration of the estate;
>
> (6) The necessity for ancillary administration if bankruptcy should result.
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> *Commonwealth Oil Refining Co., Inc.,* 596 F.2d 1239, 1247. The COMCO factors principally focus on the element of "convenience of the parties". The concept of "interest of justice" is a totally subjective one. . . . [There is an] equally available ground for transfer of venue of "interest of justice". This Court deems that principle to include the impact of venue on regulatory authorities who can be reasonably probably foreseen to be involved in a Chapter 11 case, and the Court will address its analysis on TCF's motion in this context as well.
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> In applying the COMCO factors, this Court deems the pertinent inquiry to be the *actual existence,* at the time that a hearing on transfer of venue is held, of relationships relevant to the COMCO factors. While a number of things might happen in the course of administration of a Chapter 11 case, a decision under 28 U.S.C. § 1412/Fed.R.Bankr.P. 1014(a)(1) cannot be focused on "mights"; rather, it must be focused on concrete facts that exist at the time that the motion is considered.

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case.

Before addressing analysis of the foregoing factors, an ancillary issue first raised by the debtor ("Rogan") in the memoranda filed following the close of evidence with respect to the motions must be put to rest. Focusing on the word "timely" in Fed.R.Bankr.P. 1014(a)(1), Rogan contends that the motions of both Dexia and the United States should be denied because they were not timely filed. The case was initiated by a petition filed on September 28, 2008. As noted above, Dexia's motion was filed on November 24, 2008, and the motion of the United States was filed on December 12, 2008. The § 341 meeting with respect to Rogan was first scheduled for October 30, 2008; but it was continued to November 10, 2008 (record entry #38) and was concluded on that date. First, Rogan seeks to make a point of the fact that both motions were filed after the conducting of the § 341 meeting. The court deems this assertion to be pointless: it is to be expected that creditors might seek to obtain information applicable to considerations of proper venue from a § 341 meeting, and the court would never anticipate a motion for transfer of venue to be filed prior to the conclusion of the § 341 meeting unless the record on its face conclusively demonstrated grounds for such transfer. Rogan next states that there are several hundred docket entries in this case, establishing that substantial activity has been undertaken in the case, thus making transfer of venue somehow inappropriately untimely. Actually, the focus of Rule 1014(a)(1) is the timely **filing** of the motion, not the time frame within which it is determined – a time frame which has been prolonged due to extensive disputes between the parties, and various accommodations made among the parties and the court. Thus, any consideration of events which have transpired subsequent to the filing of the two motions is irrelevant to the issue of timeliness under Rule 1014(a)(1). Additionally, Rogan did not file all required initiating documents with her case; by order entered on October 15, 2008, the deadline for filing those documents was extended to October 24, 2008. Finally, only one matter of substance was taken up by the court between the date of filing the petition and the date of filing of the motions, a motion for in essence a preliminary injunction filed by Dexia on

October 9, 2008; heard by the court at a hearing held on October 10, 2008; and determined by order entered by the court on October 14, 2008. While Dexia and the United States both filed objections to an application to employ a special counsel filed by Rogan, only a relatively short hearing was necessary for the court to hear and then determine the motion and both objections.

There is no case law binding upon the court which delineates the standards to be applied to the issue of timeliness of a motion under Rule 1014(a)(1). The court declines to address whatever law there is. The court also declines to enter into a detailed analysis of what it deems the law should be. Suffice it to say that the timeliness of any matter is measured by either the substantive or prejudicial effects of delay on the party against whom an action is taken. Dates upon which the motions of Dexia and the United States were filed in relation to the commencement of the case and matters involved in the case up to the point of those filings, evidence no substantive effect on, or procedural prejudice to, the debtor, or to the Trustee, or to the court. The court determines that the motions of both Dexia and the United States were "timely" under Fed.R.Bankr.P. 1014(a)(1).

We now turn to substantive analysis of the motions under the standards adopted by *Eagle Pointe, supra*. Each of the six prongs of the test involving "convenience of parties" will be first discussed separately, followed up by discussion of the element of "interest of justice".

A. Convenience of the Parties

It is first necessary to put into perspective what is really at issue with respect to the transfer of venue motions. First, Dexia and the United States assert that familiarity of the Honorable Bruce Black, Judge of the United States Bankruptcy Court for the Northern District of Illinois, with circumstances involving the Edgewater Medical Center bankruptcy case ("EMC"), and Judge Black's involvement in litigation which resulted in recovery by EMC of a judgment against Judith Rogan's husband – gives Judge Black a leg up with respect to issues which might arise in Rogan's case. The contention that Judge Black may have insights into matters

which relate to Rogan's case which this court does not is understandable and will be subsequently addressed under the element of "interest of justice" with respect to the requested venue transfer. There is also the litigator's perspective of Dexia and of the United States that Judge Black's involvement in issues relating to fraudulent conduct in the EMC bankruptcy case will cause him to be less sympathetic to Judith Rogan's contentions concerning her property interests in her Chapter 13 case. Those litigations perspectives are understandable as well, and will be later addressed as well.

Putting aside the foregoing, the crux of the "convenience of the parties" prong for Rogan, and for Dexia and the United States, is that a courthouse located in Hammond, Indiana is more, or less, convenient than is a courthouse located in downtown Chicago, Illinois. Although it is a resource of which the court cannot take judicial notice, a Mapquest request for directions from the Hammond federal building to the Dirksen Federal Building in downtown Chicago results in the advice that the trip is 22.97 miles and takes 35 minutes.[3] In any consideration of convenience, the court is of the opinion that the critical factor is the time involved, not the distance. The court also believes that 35 minutes – or one hour, or even several hours – isn't much time in any context. Let's posit a circumstance in which Congress determines that the Northern District of Illinois should be divided further into two separate judicial districts (the Eastern District of Illinois and the Western District of Illinois) and that the dividing line for the two districts should be somewhere in Chicago. Let's say that the dividing line is drawn west of the Dan Ryan Expressway; that the Dirkesen Building at 219 South Dearborn remains the courthouse for the Eastern District of Illinois; and that a new federal

[3] Anecdotally, the court – having taken this trip innumerable times – is of the opinion that the time difference is closer to one hour, counting parking and time from a parking facility to the court. However, parking is much more accessible to the court in Hammond. Traffic delays into and out of Chicago are much more frequent than in relation to Hammond. If we're going to split hairs, the time in an elevator to reach the court in Hammond is less, the court in Chicago being on a higher floor.

building for the Western District is built one hour away on the west side of Chicago. It would certainly be a relatively untenable proposition, wouldn't it, for a party who resides in the Western District to file a motion to transfer venue to that courthouse in a case in which he was involved in the Eastern District courthouse. That is in essence what's involved here with respect to the "convenience of the parties" prong.

1. The Proximity of Creditors of Every Kind to the Court

The short answer with respect to this factor is that the Hammond Federal Courthouse and the Chicago Federal Courthouse are equally proximate to any creditor involved in this case. If one wants to argue that some creditors may have to access either courthouse by a flight into Chicago, without quoting an official source and without fear of refutation, the court will note that the trip from Midway Airport to downtown Chicago is approximately equivalent, considering parking, to the trip from Midway Airport to downtown Hammond, and that the trip time from O'Hare International Airport to downtown Chicago is roughly equivalent to the time taken to travel from O'Hare International Airport to downtown Hammond. This factor is neutral.

2. The Proximity of the Debtor to the Court

If Rogan stays with her mother at her present domicile in Porter County, Indiana, it is more convenient for her – to the extent it's even necessary for her to appear in court – to do so at the Hammond federal building. If she stays at her condominium in downtown Chicago, it is more convenient for her to travel to the Chicago federal building. Again, either way, a 35 minute to one hour difference is not a factor at all. This is a neutral factor.

3. The Proximity of the Witnesses Necessary to the Administration of the Estate

A 35-60-minute difference between venues is not a factor with respect to this element, and this element is neutral as well. To the extent that any witnesses from either Northwest Indiana or from Chicago are necessary to determine issues on behalf of Dexia or the United

States in the case, the court has already determined that the minimal distance between the Hammond Federal Building and the Chicago Federal Building totally eviscerates any consideration of convenience of witnesses.

4. The Location of the Assets (of the Debtor)

It must first be noted that this isn't really much of a factor in most bankruptcy cases absent the need for court supervision over property through a trustee or other professional appointed to manage physical assets. This factor is not involved in this case. Rogan's Schedule A lists an interest in a condominium in Chicago, Illinois – derived from her equitable interest in the Judith Rogan Revocable Trust – as an asset of her estate. The fact that the physical asset is in Chicago is of no moment as to any practical consideration in this bankruptcy case; neither is the possibility that because her interest is in other than tangible property, the situs of that interest may follow her domicile and therefore be in Indiana. Rogan's Schedule B lists cash, furniture, clothing, jewelry, three automobiles, a boat, computer equipment, and a dog as tangible personal property interests of the debtor. Apart from the fact that Rogan's interests in these items plays no substantive role whatsoever in any issue involved in her case, many of them are located in closer proximity to the Hammond Federal Courthouse than they are to the Chicago Federal Courthouse. Schedule B also designates interests in intangible personal property, the physical managerial loci of which are someplace other than Rogan's domicile, someplace other than Hammond, and someplace other than Chicago. In fact, several of these "assets" have a physical location in relatively distant parts of the world. If one were to look at the physical location of these intangible assets, one would instantly arrive at the conclusion that they are equally proximate to Hammond and Chicago. If one were to look at the law as to their legal situs, one would find that both under Illinois law and Indiana law, the

general rule with respect to situs of intangible property is the domicile of the owner.[4]

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[4] With respect to Indiana law, in *Phillips v. Schalf*, Ind. App., 778 N.E.2d 480, 483-484 (2002), the following is stated:

> Indiana courts have recognized that under the rule of "mobilia sequuntur personam," the situs of intangible personal property is the legal domicile of the owner. *Ind. Dep't of State Revenue v. Bethlehem Steel Corp.,* 639 N.E.2d 264, 268-269 (Ind.1994), *reh'g denied.* Thus, Scalf's right of publicity is "located" in Morgan County with Scalf. Because the chattel is "regularly located or kept" in Morgan County, preferred venue for Scalf's complaint exists in Morgan County under Ind. Trial Rule 75(A)(2).

This statement follows the pronouncement of the Indiana Supreme Court, never overruled by that court, stated in *Hewit v. Freeman*, Ind., 51 N.E.2d 6, 8 (1943) as follows:

> The situs of intangible property, such as stocks and bonds, is not of a transitory character. As to assets of this type there has been applied the rule of 'mobilia sequuntur personam'-the situs of the property is the domicile of the owner. This doctrine maintains, generally, in the absence of a statute or of peculiar facts forcing a different conclusion. Cooley, Taxation, 4th Ed., § 440; Union Refrigerator Transit Co. v. Commonwealth of Kentucky, 1905, 199 U.S. 194, 26 S.Ct. 36, 50 L.Ed. 150, 4 Ann.Cas. 493; Buck v. Beach, 1906, 206 U.S. 392, 27 S.Ct. 712, 51 L.Ed. 1106, 11 Ann.Cas. 732; Blodgett, Tax Commissioner of the State of Conn., v. Silberman, 1928, 277 U.S. 1, 48 S.Ct. 410, 72 L.Ed. 749; Croop v. Walton, 1927, 199 Ind. 262, 157 N.E. 275, 53 A.L.R. 1386. No such statute has been called to our attention and no such facts are disclosed by the stipulation. It must, therefore, be concluded that the situs of the stocks and bonds sold by the appellee was in this state, where he was domiciled. For a discussion of the circumstances that may establish for intangible property a situs different from the domicile of the owner, see Miami Coal Co. v. Fox, Treas., 1932, 203 Ind. 99, 176 N.E. 11, 79 A.L.R. 333.

While the situs of an intangible personal property interest arising from a debt owed by a third party may be the location of the debtor rather than the creditor [*Carter v. Estate of Davis*, Ind. App., 813 N.E.2d 1209 (2004), transfer denied 2005], any asset in which Rogan has an interest which falls within this category has a situs far removed from either Chicago or Hammond.

Illinois follows similar rules. In *Kiser-Ducett Corp. v. Chicago-Joliet Livestock Marketing Center, Inc.*, Ill. App., 407 N.E.2d 1149, 1152 (1980), the following was stated:

> The judgment creditor's suggestion overlooks the fact that for ease of administration, for a determination of jurisdiction, and for other reasons, intangible personal property is often presumed to

In the instant case, the domicile of Judith Rogan is at a location in Indiana which has closer proximity to the Hammond Federal Courthouse than it does to the Chicago Federal Courthouse. To the extent one might wish to quibble about the location of assets in the context of the venue transfer motions, the bulk of Rogan's assets are closer to Hammond than they are to Chicago, or are so far distant that it doesn't matter. But we're not here to quibble. This element is a neutral factor in this case.

5. The Economic Administration of the Estate

As was true with the previous factors, because of the 35-60 minute difference between

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> have a location. (See, e. g., Ill.Rev.Stat.1977, ch. 1101/2, par. 5-2. See also, 15A C.J.S. Conflict of Laws, s 18(3) (1967) and, 64 C.J.S. Municipal Corporations s 2021 (1950).) For taxation purposes, for example, the situs of intangible personal property owned by a corporation is the location of the chief office of that corporation. (64 C.J.S. Municipal Corporations s 2021 (1951); See also, Ill. Rev.Stat.1969, ch. 120, par. 538.) This appears to be based on the general rule that intangible movables have their situs at the domicile of the owner. (15A C.J.S. Conflict of Laws s 18(3).)
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> It follows, therefore, that the logical authority to whom the writ of execution should be delivered for the purpose of creating a lien on intangible personal property is the sheriff of the county in which the corporate judgment debtor has its principal place of business.

Although the concept of a tax situs is somewhat different than the concept of "situs" in other contexts, the tax situs of intangible personal property under Illinois law is deemed to be the domicile of the owner. As stated in *Estate of Swanson v. Leigh*, Ind. App., 463 N.E.2d 1379, 1381 (1984) [interestingly enough in the context of a beneficial interest in an Illinois land trust] the following was stated:

> Another well established rule of law provides that the taxable situs of intangible personal property is the domicile of the decedent. (*People v. Forman* (1926), 322 Ill. 223, 153 N.E. 376; *In re McCalmont's Estate* (1958), 16 Ill.App.2d 246, 148 N.E.2d 23.) The decedent here died domiciled in the State of Florida. Therefore, her intangible personal property, including the beneficial interest in the land trust, had its taxable situs in the State of Florida.

See also, Scripps v. Board of Review of Fulton County, Ill., 55 N.E. 700 (1899).

the Hammond Federal Courthouse and the Chicago Federal Courthouse, there is no meaningful distinction between the two under this element. The only possible consideration was pointed out by Rogan in her legal memoranda, i.e., the increased expense involved if counsel for the debtor is required to travel to Chicago for hearings with respect to the case as contrasted to traveling to Hammond. Debtor's counsel's fees and expenses, as allowed by the court, are compensable as an administrative expense in the Chapter 13 case, and thus the slight increase in this context is weighted in favor of Rogan. While it could be argued that Rogan has an alternative counsel in Chicago, both Dexia and the United States made it clear in the hearing on their objections to the application to employ that attorney as special counsel, that they would oppose his being appointed – or at least did oppose his being appointed – as general counsel for the debtor. While there is a slight tilt toward Rogan with respect to this factor, it is not enough for the court to say that this element is other than neutral in this case.

6. The Necessity for Ancillary Administration if Bankruptcy Should Result

First, what is the concept of "ancillary administration" referred to in this element? It must be recalled that this element derives from federal case law and not from a statute which utilizes "ancillary administration" as a defined term.[5] The concept of an ancillary proceeding within this element is one which relates to cases pending in courts other than the bankruptcy court in which the principal case is pending, which may affect the proceedings in the bankruptcy case. Dexia and the United States, of course, in essence contend that ancillary proceedings are already pending in the United States District Court for the Northern District of Illinois, and that a somewhat related proceeding (Edgewater Medical Center) is before the United States

[5] If the latter were the case, "ancillary administration" under the Bankruptcy Code involves foreign proceedings, within the provisions of Chapter 15 of the Bankruptcy Code. Such proceedings are not involved in this case, or if they are in a certain analogous context, they are in other countries equidistant from both Chicago and Hammond.

Bankruptcy Court for the Northern District of Illinois. Rogan's case has been extraordinarily complicated by the pendency of collection activities in the United States District Court for the Northern District of Illinois by both Dexia and the United States, and the exercise of control by the United States District Court for the Northern District of Illinois over property that from the inception of this Chapter 13 case has clearly been property of Judith Rogan's bankruptcy estate under 11 U.S.C. § 541. This court has made it clear in its rulings on the motions for stay relief filed by both Dexia and the United States that it is this court that has primary responsibility for administering property of the estate and determining what in fact constitutes property of this estate. Unfortunately, no definitive proceedings have been undertaken by any party in this case to correct the tension which has existed by the exercise of control by the United States District Court for the Northern District of Illinois. Given the record which has been made before the court with respect to the matters now pending in that court, this court fully appreciates and endorses the need for enjoining Rogan's transfers of property interests. However, it is this court's view that the appropriate mechanism for doing so would have been to approach this court for a protective injunction, upon the granting of which (upon whatever terms this court saw fit to do it) the United States District Court for the Northern District of Illinois would have eviscerated its injunction orders with respect to property of this bankruptcy estate. Unfortunately, that has not happened. Because this court views certain proceedings in the United States District Court for the Northern District of Illinois with respect to property of this bankruptcy estate to be an impingement upon the jurisdiction of this court over that property, the court deems this factor to be neutral with respect to both parties. While pursuant to 28 U.S.C. § 157, the jurisdiction of a United States Bankruptcy Court is derived from the bankruptcy jurisdiction accorded to a United States District Court, that jurisdiction is determined by district, and not by the general configuration of district courts vis-a-vis bankruptcy courts. This court has been invested with the full bankruptcy jurisdiction of the United States District

Court for the Northern District of Indiana pursuant to N.D.Ind.L.R. 200.1, and that jurisdiction is not in any manner subservient to a United States District Court in the Northern District of Illinois.

This "ancillary administration" factor is not applicable in this case, or is at best neutral.

Finally, there is no direct regulatory interest to be considered within the scope of the *Eagle Pointe* framework: CMA's and the IRS' interests in this case are represented by the United State Department of Justice, which has an office two floors down from the court's abode.

7. Conclusion

The factor of "convenience of the parties" under Fed.R.Bankr.P. 1014(a)(1) is a complete wash in this case – it favors no party.

B. INTEREST OF JUSTICE

Much of what can happen or will happen with respect to (1) property to be ultimately administered through this bankruptcy case; (2) the claims of the United States of America and of Dexia Credit Local; (3) the ability of Judith Rogan to propose a Chapter 13 plan which can be confirmed; and (4) determination of the interests of Dexia and of the United States in property which now comprises property of this bankruptcy estate – depends upon resolution of issues regarding derivation of Judith Rogan's property interests in relation to Peter Rogan's judicially determined fraudulent conduct with respect to obtaining huge sums of money from the federal government and others through his manipulation of EMC and other entities. The record before the court in this case clearly establishes that there are significant substantive issues as to whether Judith Rogan will ultimately retain, unabated, her interests in properties designated in her bankruptcy schedules. Certain of these issues are the principal focus of proceedings now pending in the United States District Court for the Northern District of Illinois with respect to matters brought before that court by both Dexia and the United States. However, the motions to transfer venue do not relate to transferring this bankruptcy case to the United States District Court for the Northern District of Illinois, but rather to transferring this case to the United States

Bankruptcy Court for the Northern District of Illinois. According to the record, only one judge in the Bankruptcy Court for the Northern District of Illinois has any background whatsoever in matters that in any way relate to this case, i.e., the Honorable Bruce Black. However, Judge Black is not substantively involved with determination of the issues now before the district court, and he is not going to be involved in that determination under any circumstance that can presently be definitively defined. While counsel for Dexia and the United State may opine that they are relatively certain that Judge Black would be appointed to preside over this case were it transferred to the Northern District of Illinois, that is nothing more than speculation. Moreover, on its face, this case has nothing to do with matters which might cause Judge Black to be a more appropriate judicial officer to administer this case than is this court.[6]

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[6] Some loose analysis has been given to the addressing of legal issues that might arise in this case under applicable state law. The proponents of transferring this case assume that those issues would be defined by Illinois law, not by Indiana law. There is no answer in fact to this question at this time. One cannot answer this question until one applies the conflicts of law rules of the forum state in which the bankruptcy case is pending. It must initially be noted that the Seventh Circuit Court of Appeals has not decided the issue of whether federal choice-of-law analysis, or state choice-of-law analysis, controls in a federal case not based upon diversity, particularly in a bankruptcy case; *In re Jafari*, 569 F.3d 644 (7th Cir. 2009). This is a bit surprising, perhaps, in light of *Zapata Hermanos Sucesores S.A. v. Hearthside Baking Co., Inc.*, 313 F.3d 385 (7th Cir. 2002); *rehearing & rehearing en banc denied*, 2003) [in which it was stated that although that case was not a diversity case, "the *Erie* Doctrine applies to any case in which state law supplies the rule of decision", 313 F.3d at 390], and *Klaxon Co. v. Stentor Electric Mfg. Co.*, 61 S.Ct. 1020 (1941) [in which the Supreme Court held that the *Erie* Doctrine required the application of the forum state's conflict of law rules]. Be that as it may, there is nothing compelling in the argument that Illinois law would ultimately be applied to the critical issues in this case. Even if that were true, this court is not an endorser of the concept that just because a federal court is located in a particular state, that federal court is better able to ascertain and apply the laws of that state than is a federal court sitting in another state. Certain of the issues which will arise in this case are strictly issues of federal law with which this court has as much experience as any other federal court is likely to have. Issues relating to fraudulent conveyance or constructive trust are issues which arise in bankruptcy courts consistently, and ascertaining and applying the laws of Illinois is no more difficult for this court than it is for this court to ascertain and apply the laws of the State of Indiana. The contention that somehow a federal court in Illinois is better able to deal with Illinois law than is a federal court in Indiana, in the context of this case, is not, in this court's opinion, a viable one. Additionally, in any matter that might arise in this case directly or even tangentially related to the bankruptcy case of Edgewater Medical Center, Judge Black's background in EMC may be helpful in short-cutting review of the EMC record, but any decision he might be called upon to

The real issue involved in this case is not whether the bankruptcy case should be transferred to the United States Bankruptcy Court for the Northern District of Illinois, but rather how determinations of Rogan's bankruptcy estate's interests in property should be made. Litigation concerning the extent of Judith Rogan's interests in property potentially derived from the illegal activities of Peter Rogan was pending in the United States District Court for the Northern District of Illinois before this case began. The record establishes that that court has conducted extensive proceedings with respect to the derivation of certain property interests of others relatively similarly situated to Judith Rogan with respect to Peter Rogan. The United States District Court for the Northern District of Illinois may well be in the best position to decide critical issues concerning the extent of Judith Rogan's interests in property in relation to Peter Rogan's illegal activities than are either this court or the United States Bankruptcy Court for the Northern District of Illinois. However, transferring venue of this case to the United States Bankruptcy Court for the Northern District of Illinois won't get anybody anywhere in this context – that court will still be in the same position as is this court. While one might posit that a judge in the Chicago bankruptcy court might wander "down the hall" and discuss procedural case matters with a judge of the United States District Court, in this court's view that is not appropriate in the context of this case, and the court assumes that judges in the Northern District of Illinois would view this matter the same way.

The critical issues confronting this Chapter 13 case are clearly determination of the property interests of Judith Rogan in relation to the activities of Peter Rogan. The matter presently before the court with respect to this memorandum of decision are motions to transfer venue to the United States Bankruptcy Court for the Northern District of Illinois. In the court's view, this transfer of venue will do nothing substantively to advance this case. The tension

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make in this case will be circumscribed by that record and not by his anecdotal experience in EMC's case.

between exercise of jurisdiction over Judith Rogan's property interests by both the United States District Court for the Northern District of Illinois and by any United States Bankruptcy Court will still remain.[7] Granting the venue transfer motions would do nothing to substantially enhance the processing of Rogan's Chapter 13 case, and granting of those motions is not in the interest of justice, especially given the presumption in favor of the debtor's choice of initial venue for her case.

In conclusion, the court determines that the venue transfer motions of both Dexia and the United States should be denied.

CONCLUSION

IT IS ORDERED that the Motion of Dexia Credit Local to Transfer Venue of Chapter 13 Bankruptcy Proceeding is DENIED.

IT IS FURTHER ORDERED that the United States' Motion to Join Dexia's Motion to Transfer Venue is DENIED.

Dated at Hammond, Indiana on March 11, 2010.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee
Gabriel Aizenberg
AUSA Joseph Stewart

[7] In addition to its venue transfer motion, Dexia has pending before this court a motion for relief from the stay, a modified version of a motion which it filed which was previously denied. By separate decision, this court has provided a mechanism for vindication of its concerns over the bankruptcy issues involved in determinations to be made by the United States District Court in Illinois with respect to the property subject to the second stay relief motion of Dexia, i.e., conditioning stay relief upon the district court's allowing the case to be processed in a certain manner.